APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
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ART UNIT	PAPER NUMBER
2164	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>26 November 2007</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

    b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

    Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ They raise the issue of new matter (see NOTE below);

    (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: *1-20*.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☒ Other: <u>See Continuation Sheet.</u>

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant argues, in regards to claim 1, that Zait et al "does not define a range of a fragmentation dimension basis function of one or more database fields". Applicant also argues that "it is well known in the mathematical arts, functions express dependence between two quantities, one of which is given by the independent variable argument to the function (its input) and the other is produced as a dependent variable value of the function (its output)". Examiner notes that a function is also, according to "The Authoritative Dictionary of IEE Standards Terms, Seventh Edition", "a programming language construct, modeled after the mathematical concept. A function encapsulates some behavior. It is given zero or more arguments as input, performs some processing, and returns some results. Functions are also known as procedures, subprograms, or subroutines". It is noted that the partition function of Zait et al. (see 1:38-67), accepts as input 'values less than to_date (yy-mm-dd, '94-04-01', and so on. The data is a database field. Therefore, the partition function of Zait et al. is a 'fragmentation expression' that 'corresponds to one of the plurality of database fragments', and the boolean comparison that serves to tell the fragmentation expression the range of the fragment 'defines a range of a fragmentation dimension basis function of one or more database fields'. As the partition function corresponds to the date field, and the resulting partition is composed of data organized by the date field, it is a 'fragmentation dimension basis function of one or more database fields'.

In regards to claim 14, Applicant repeats the arguments of made in regards to claim 1. As such, the Examiner reiterates that the partition function of Zait et al. is a fragmentation dimension basis function that depends on one or more database fields (specifically, the date field), and that the date comparison function is a fragmentation expression defined by a boolean comparison, and database fragments.

In regards to claim 19, Applicant argues that Zait et al. does not teach "fragmentation based on computed values of fragmentation dimension basis functions similar to the above-described features of independent claim 1. This method of fragmentation is neither taught nor fairly suggested by the range-based and hash-based fragmentation schemes described in the Zait '684 patent. As previously discussed above with reference to claims 1 and 14, the Zait '684 appears to not discuss any functions other than hash functions which are unlike those of the basis functions described in the present application". It is noted that claim 19 claims "program code for constructing a fragmented database having a fragmentation scheme constructed based on computed values of fragmentation dimension basis functions, each fragmentation dimension basis function configrued to compute the values based upon at least one database field". As noted previously, Zait et al. does teach these limitations, in that Zait et al. teaches creating a fragmentation scheme based on computed values of a partition function, wherein the computed values are calculated by comparing a cutoff date with the date of entries in a database (see 1:38-67).

Applicant states that "applicant reiterates each of the arguments set forth previously with regard to the secondary references of Jakobsson, Antoshenkob, and Hallmark". In response to this reiteration, Examiner notes that the arguments set forth previously were answered in the Office Action of 25 September 2007, page 16, section 8.

Continuation of 13. Other: The amendment to claim 13, wherein an 'and' is inserted between the second and third limitations, does not materially change the limitations of the claim. As such, claim 13 will be rejected by Zait et al. in view of Hallmark et al. as it was on page 12 of the Office Action of 25 September 2007. .

CHARLES RONES
SUPERVISORY PATENT EXAMINER